

JUL 13 2010

Honorable Board Members:

My name is (b)(6). I'm a citizen of the Kingdom of Saudi Arabia. On the continuance and forgoing of the infringement of human right, in specific regarding my situation with the ICE workers. On January 13, 2010, four persons entered my apartment in Manhattan, NY without my consent or any court orders or notice. They crossed threshold as invaders. They created unsafe and unsecured environment. I awoke with fear, and found out that they were entitled under ICE. One of the Federal agents, (b)(6),(b)(7)(C) told me that my immigration status was terminated, because the time of my F-1 VISA was expired. I was stunned because I was complying to every single report that was sent to me via Immigration Circuit Office, (b)(6). I tried to show him the letter in my apartment that was issued by Immigration Advisor in (b)(6). He ignored it and told me you'll come back later, and arrested me right there. Also, the Agent (b)(6),(b)(7)(C) offered me a closed bottled of water to drink in attempt to provoke me while I was hand-cuffed in the back of the car. The agent (b)(6),(b)(7)(C) said : "This is water if you want".

They took me to the Federal building in downtown Manhattan, NY. The agent (b)(6),(b)(7)(C) with others passed me papers to sign. From the shock, I signed many papers over there, and even without focus. I was a very patient in order that justice takes place. In the process of removal proceeding, Deportation Officer / (b)(6),(b)(7)(C) was careless during the dealing with my case and without integrity as person in charge. I asked him once about my case. He replied: "I don't know." Then, after the Final Order of Immigration Judge, he gave me a paper to sign that it entitled under Warning for failure to depart. I informed him: "My case still in process." He said: "Don't worry." Just a regular paper. I replied him: "O.K. I'll sign it. Then, he took the original document and left me a copy of it. ICE/ (b)(6),(b)(7)(C) treated me as product to stamp it, not in the way that he should be with integrity to deal my case. Where as, the response from BOARD OF IMMIGRATION APPEALS takes approximately 2 months more or less. He ignored me intentionally while I explained to him that "I am waiting for response from B.I.A. AS PROCESS, AND AS MY RIGHT TOO."

He stepped away from me to go out from the dorm H without shown him a copy of B.I.A that I already sent before deadline of appealing [MARCH 29]. In addition, the officer at Elizabeth detention center in dorm H told me "pick up". I refused the decision and I emphasis to them that my case is still in process. Then, they transferred me to Essex County Jail in Newark, NJ.

Since the month of APRIL, I suffered a lot at Essex County Jail in the way how they treat me. I tried to talk to who supposed in charge of my case according to my ending digit's number: A. (b)(6) I asked ICE worker / (b)(6),(b)(7)(C) to check my status, whether they received any response from B.I.A. or related to my situation here. He replied: we don't have any information about your case. Your file at Elizabeth Detention Center 625 Evans St., NJ. Then, after a week I talked

with Supervisor ICE at Essex County Jail with dire concern that I want to know and check my status and why I'm here at Essex County jail. I told him: "I'm waiting a response from B.I.A., and I have a copy the documents that I had sent previously. I was discussing my case that how they attempt to deport me while I follow the process of my right in appealing my case! He replied: "They still can deport you. I replied him: I have a copy of the documents that I sent before, and also I have a copy of a Notice of Appeal that I had sent recently. He didn't have a copy of it. Then, he left Dorm 3 at Essex County jail. After a few days, they call me to deport me, and to sign papers with people under ICE. I informed that I'm waiting for response from B.I.A. They told me: "sign here" You can't deport me, and I have a copy of appealing documents of my case, and I tried to show them the copy that I possess, but they disregard that. Then, I signed the papers that they gave me with absent minded!

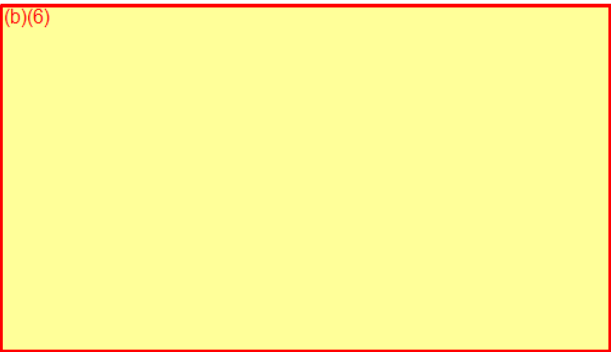
After that, they took me to JFK airport, New York. At the check border point before getting the plane, which it was on DELTA airways, and the flight is going toward Cairo at night time. It was a lot of individual arguments between who acted three persons, who acted under ICE. One of them is called (b)(6),(b)(7)(C) And I see clearly disapproval from the members of Delta airway's administrative officers, or who related to it. Despite of that, they attempt to pursue them to get me inside the plane. After extended conversation with them, they got along with the situation silently with confusion. Then they told me: go ahead. I informed them: My case is still in process in spite of that I show the person under ICE, (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C) As few pages of B.I.A. documents that I sent. In violent manner, three persons dragged me cruelly with strong tied cuffed surrounded my hands. Our Honorable Board Judges I was kidnapped. They were surrounded me by force. They pushed on the right, on the left, and on the back side. They treated me in inhuman way violently, even my shirt was worn out off on the front from coward and terrorist behaviors. They got me inside the plane by force without any concern about my health condition or my consent. They dragged me cruelly till they got me on the plane's seat. They put safety belt the middle of my body with 2 strong cuffed handed on the back, and not on the front of my body as usual routine. I still have traces on my hand from cruel

practices. The captain of the plane asked two critical and important questions to those people who kidnapped me with stunned looking: Is this the way how you deal with situation like this! Their response is" it's a normal in attempt to ease the horrible situation. 2. The captain asked: Is his hands are going to be on this position, which is 2 tied handed on the back, which is the normal procedure should be on the front, not on the back side. The captain said: how he is going to eat, drink, and to use the restroom! The kidnappers replied: we'll do that. Silently, the captain went back to his plane cabinet. They were arguments between me and the 3 kidnappers for 10 min. or more , then , one member of the plane staff informed them: the captain said: he want him off the plane. The kidnappers took me off the plane that was going toward CAIRO on Delta's airways. They pushed me between time and another till I got out of the JFK airport, then, inside their car. They took me back to Essex County Jail in NJ at night. They refused to get me inside because I was discharged. Then, they held me in another place, which is Elizabeth Detention Center in Elizabeth, NJ. They held me with out health care check despite the fact that I was in dire situation after the violent behaviors. On the next day, they complete some procedure back and forth between Elizabeth detention center and Essex County Jail to charge me again in order to put me in the Essex County Jail. I still suffering a lot of unjust terrorist acts that involved in my case as human right was given in this country.

With all sorrow and sadness, I still can't believe what occurred to me in the U.S. So that, I humbly request your justice to take the serious acts against those violators, and stop all these infringements, and to be lesson to every body misbehave the authority that was given to them, with the consideration of civil right and civil liberty that this country stand for. I pray for almighty to stand firmly against the oppression and different color of unjust.

(b)(6)



Dated: May 28, 2010

DHS/TSA Civil Rights

DHS Complaint History Listing

DHS Matters: 10-10-ICE-0164 (b)(6)							
Data Object	Date	Event	Field	New Value	Tracking Id	User	Reason
DhsComplaint	2010-08-16 19:00	Created	Task		6698	(b)(6)	migrated
DhsComplaint	2010-08-16 19:00	Created			6698		migrated
DhsComplaint	2010-08-16 19:00	Edited			6698		migrated
DhsComplaint	2010-08-16 19:00	Edited	Task:Assignment: Assigned matter From (b)(6) To:DHS Due:2011-01-09 17:00:02.152		6698		migrated
DhsComplaint	2010-08-16 19:00	Edited			6698		migrated
DhsComplaint	2010-08-16 19:00	Note Added	Sent to IG:		6698		migrated
DhsComplaint	2010-08-17 18:36	Document Added	Document: (b)(6) incoming correspondence (received 7-13-2010)		6698		migrated
DhsComplaint	2010-08-17 18:36	Document Added	Document: OIG declination email - CRCL Complaint no. 10-10-ICE-0164 (b)(6)		6698		migrated
DhsComplaint	2010-08-17 18:37	Note Added	From IG:		6698		migrated
DhsComplaint	2010-08-17 18:37	Edited			6698		migrated
DhsComplaint	2010-08-17 18:38	Edited			6698		migrated
DhsComplaint	2010-08-17 18:38	Note Added	To awaiting Recommendation:		6698		migrated
DhsComplaint	2010-08-18 16:27	Note Added	Recommendation (b)(5) (b)(6)		6698		migrated
DhsComplaint	2010-08-18 16:27	Edited			6698		migrated
			Approved (to Back From Officer):OK (b)(5)				

DhsComplaint	2010-08-21 23:26	Note Added	(b)(5)		6698	(b)(6)	migrated
DhsComplaint	2010-08-21 23:26	Edited			6698		migrated
DhsComplaint	2010-08-21 23:26	Edited	Task:Assignment: Assigned matter From: (b)(6) To: (b)(6) Due:2011-01-09 17:00:02.0		6698		migrated
DhsComplaint	2010-08-24 18:00	Document Added	Document: Acknowledgement Letter - (b)(6)		6698		migrated
DhsComplaint	2010-09-29 13:54	Create	From Matters	migration	6698		migration
DhsComplaintAction	2011-02-03 13:05	Create	Action Date	02/03/2011	103337		User Change
DhsComplaintAction	2011-02-03 13:05	Create	Action	Short Form	103337		User Change
DhsComplaintAction	2011-05-10 15:17	Create	Action Date	05/10/2011	104913		User Change
DhsComplaintAction	2011-05-10 15:17	Create	Reporting Summary	In July 2010, CRCL received a complaint from a detainee who was being detained by ICE in a county jail in New Jersey. According to the complainant, ICE actively tried to remove him from the country despite having an active appeal pending with the Board o	104913		User Change
DhsComplaintAction	2011-05-10 15:17	Create	Internal Summary	On July 13, 2010, CRCL received a letter from (b)(6) a Saudi Arabian citizen who was arrested by ICE for failing to comply with the terms of his student visa. Mr. (b)(6) states that on January 13, 2010, he was arrested by ICE.	104913		User Change
DhsComplaintAction	2011-05-10	Create	Action	Closed - Short Form/No Further	104913		User Change

	15:17			Action		(b)(6)	
DhsComplaintDocument	2011-05-10 15:03	Create	Foreign Language	No	83833		User Change
DhsComplaintDocument	2011-05-10 15:03	Create	Dateentered	05/10/2011.	83833		User Change
DhsComplaintDocument	2011-05-10 15:03	Create	Document 2	10-10-ICE-0164 Supporting DOCS.PDF	83833		User Change
DhsComplaintDocument	2011-05-10 15:03	Create	Document Type	Short Form Doc	83833		User Change
DhsComplaintDocument	2011-05-10 15:03	Create	Document 1.	SHORT FORM 10-10-ICE-0164 tjik_Signed 051011.pdf	83833		User Change
DhsComplaintIssue	2011-10-18 16:20	Update	Religion		12276		User Change
DhsComplaintIssue	2011-10-18 16:20	Update	Incident Location Type	BCIS Facility	12276		User Change
DhsComplaintIssue	2011-10-18 16:20	Update	Situation	Immigration detention	12276		User Change
DhsComplaintIssue	2011-10-18 16:20	Update	Redirect to Subject	No	12276		User Change
DhsComplaintIssue	2011-10-18 16:20	Update	Incident Location		12276		User Change
DhsComplaintIssue	2011-10-18 16:20	Update	Disability		12276		User Change
DhsComplaintIssue	2011-10-18 16:20	Update	Comments	08/18/2010: Recommendation (b)(5),(b)(6) 08/23/2010: Approved (to Back From Officer):OK (b)(5)	12276		User Change
DhsComplaintIssue	2011-10-18 16:20	Update	Color		12276		User Change
DhsComplaintIssue	2011-10-18 16:20	Update	Other Issue		12276		User Change

DhsComplaintIssue	2011-10-18 16:20	Update.	Sex		12276.	(b)(6)	User Change
DhsComplaintIssue	2011-10-18 16:20	Update.	Race		12276.		User Change



Homeland
Security

OFFICE FOR CIVIL RIGHTS & CIVIL LIBERTIES (CRCL)
COMPLAINT WITHOUT RECOMMENDATIONS
CLOSURE MEMORANDUM

To: (b)(6)
From: (b)(6)
Through: (b)(6)
Date: March 15, 2013
Complaint Number: 11-01-ICE-0005
Complainant Name: (b)(6)

Reasons for Closure without Recommendations:

(b)(5)

Complaint Synopsis and Explanation of Closing Rationale:

On October 4, 2010, CRCL received from DHS Executive Secretariat a September 21, 2010, letter to DHS Secretary Janet Napolitano from Ms. (b)(6) alleging that her godson, (b)(6) a U.S. Immigration and Customs Enforcement (ICE) detainee at the time, and several other men were the victims of racial and religious profiling. Ms. (b)(6) alleges that ICE Special Agent (SA) (b)(6), (b)(7)(C) was harassing and targeting for immigration enforcement Mr. (b)(6) and the other men because they were Muslim and from Niger. Additionally, Ms. (b)(6) alleges there were deficient conditions of detention at Baker County Detention Center, where Mr. (b)(6) was being detained. The Joint Intake Center also received Ms. (b)(6) complaint (b)(5)

(b)(5), (b)(6)

November 1, 2010

(b)(6)

Jacksonville, Florida 32221



**Homeland
Security**

Re: Complaint No. 11-01-ICE-0005

(b)(6)

Dear Ms. (b)(6)

The Department of Homeland Security's Office for Civil Rights and Civil Liberties received a complaint from you on October 1, 2010. Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, this Office has the responsibility to review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department of Homeland Security (DHS). Pursuant to 6 U.S.C. § 345(a)(6) and internal DHS policies, we initially refer all such complaints to the Office of Inspector General. If the Inspector General declines to accept the complaint, it is returned to this Office for handling or reassignment within the Department.

The issues you raise are very important to us, and we are working to provide a written response describing how we will handle this matter. The information you provided or may provide will be used in accordance with 5 U.S.C. § 552 (Freedom of Information Act), 5 U.S.C. § 552a (Privacy Act), 6 U.S.C. § 345 (Homeland Security Act), 42 U.S.C. § 2000ee-1 (9/11 Commission Act), 44 U.S.C. § 3101 (Federal Records Act) and other relevant federal laws. While we will seek to prevent unnecessary disclosure of the information provided, we may need to share some of this information with relevant persons. Also, we may be required by law or government policy to release information, in whole or in part, to other government agencies, Congress, and other private individuals. Such disclosures may be mandatory under the Privacy Act, the Freedom of Information Act, the Federal Records Act, and other statutes or regulations. When disclosures are made, personal information will be redacted to the extent permissible. A discussion of your rights under the Freedom of Information Act and the Privacy Act can be found at <http://www.pueblo.gsa.gov/call/foia.htm> or in the attached materials.

Please provide us your updated contact information, including a phone number, e-mail, and mailing address. Thank you for your patience in awaiting our response. You may contact this Office by email at crcl@dhs.gov or by phone at 1-866-644-8360, 1-866-644-8361 (TTY). For additional information about the roles and responsibilities of our Office, see <http://www.dhs.gov/civilliberties>.

If you are filing a complaint on behalf of an individual(s), you must provide this Office with expressed written consent from the individual(s), should you wish to receive information about the complaint. Thank you for contacting the Department of Homeland Security's Office for Civil Rights and Civil Liberties.

Director for Review and Compliance
Office for Civil Rights and Civil Liberties

Secretary Janet Napolitano
Department of Homeland Security
Washington, D.C., 20528

September 21, 2010

SCANNED/RECEIVED
BY 270 SEC
2010 OCT -1 PM 2:35

Ref: (b)(6)

Dear Secretary Napolitano:

I am writing this letter to you to bring attention to the racial and religious profiling against Muslims from Niger, Africa, by one of your agents, (b)(6),(b)(7)(C) who is with I.C.E. (immigration and custom enforcement) in Jacksonville, Florida. This Agent has made the lives of several African Muslims a living hell and there seems to be nothing that these young men can do, except wait to be imprisoned and possibly deported.

I am the God-mother of one of these young men, his name is (b)(6) I met this young man when he enrolled at Florida Community College. I was his Counselor and Advisor. He could speak very little English but enrolled in ESL classes, GED classes and later enrolled for college credit classes. He has successfully completed his Associates of Arts degree, and completed his Associates of Applied Science degree in Practical Nursing and is just about to complete his Bachelors degree in Nursing. His desire is to graduate with his BSN degree and to work and have a better life. He has done this under great stress because of the inhumane treatment he has gotten from Agent (b)(6),(b)(7)(C) who began a witch hunt to find any kind of violation of the immigration laws in order to deport these young men.

What he did find in violation was all eight of these young men who were in this country legally on student visas, also had to work. They had no idea how expensive it would be to live and go to school in this country. Even though their families help out as much as possible, they still needed living expenses because they paid out of state tuition. They were able to get jobs making \$7.00 per hour to help out with expenses. They had social security cards and they paid taxes.

They were arrested and sent to a Federal Prison in Georgia for this violation. After they got out of prison on bail, they were put on probation and harassment from this agent (b)(6),(b)(7)(C) who has been relentless in trying to find anything to arrest them again, even if it's a parking ticket. There were eight young Muslim men from Niger, he has already deported two.

This agent and two others came to my house, without a warrant where (b)(6) was living and traumatized everyone in the house with their aggressive knocking and banging on the door. They did damage to my door but no one open the door because of fear. Because (b)(6) is on probation, his probation officer asked him to come in to see him. When he got to the office this agent was there to arrest him.

(b)(6) is in Baker County Detention Center, charged with nothing. The immigration sent a letter denying his appeal for asylum and gave him 30 days to appeal it. His attorney has filed a motion to reopen this case, and they should not have arrested him. He has spent thousands of dollars for attorney fees and he just does not have any money. This agent took all of his papers, his green card and work permit. This agent seems to have influence over the immigrations department and judges. All of these young men were brought before the same judge Earl B. Wilson, who obviously, was prejudice against

Muslims also and denied all of their pleas for mercy and sent them to Federal Prison like criminals and they had not broken any laws. Violation of a not to work law should have been a fine, not a prison sentence. There are many illegal immigrants in this country who have done worst and have not been deported

I am pleading with you to look into this matter before they deport (b)(6). He has worked so hard to become a nurse and is very close to finishing his degree. His desire is to stay in this country and make it home. He has not broken any laws of the land. He is a good, moral person. As a nurse he has chosen a noble profession to help others.

I plead with you to investigate this agent (b)(6),(b)(7)(C). He has made sarcastic comments against the religion of these young men, such as "Go tell your God that you pray to that I am going to send you home. We don't want people like you in this country". Also, "every house I go in, I see this prayer rug, we don't want your kind here." In the investigation of Fatoulaye, agent (b)(6),(b)(7)(C) tried to prejudice me by his comments that "these people pretend to be innocent and helpless so that they can use Americans".

The reason that I am writing this letter, I am a Christian, and American, and injustice is just that. It can't be excused for any people. Please help.

There are at least 200 immigrants sitting in Baker County Jail. They have no windows in the jail, the inmates have not seen the light of day since their arrest. They are not given an opportunity to go outside for exercise or recreation. They can only look at TV, pray and eat and sleep. They can not even have contact with visitors; they must talk from their dorms on telephone monitors. This is cruel and inhumane treatment of these immigrants. (b)(6) is not a criminal and to be put in this kind of environment is criminal. He would have left the country if given an opportunity after he had exhausted all legal appeals to remain in the United States. Why is he in jail traumatized because he wanted to have a better life?

Secretary Napolitano, I implore` you to help my god-son to be released from Baker County Jail, where he has been held for over two weeks, charged with nothing except being a "Muslim". He desires to complete his BSN degree and become a law-abiding contributing citizen. It is wrong to make criminals out of immigrants who are here legally. My god-son had a student visa, and is married to an American citizen. Immigration has completely disregarded the marriage all together. It use to be when a person married an American citizen this provided certain opportunities but with this Agent (b)(6),(b)(7)(C) influence there is no consideration given to his wife. Please see copy of wife's letter attached. This agent has taken everything away from this young man. The agent even had his driver's license cancelled.

Thank you for your consideration of this matter.

Sincerely,

(b)(6)

(b)(6)

Jacksonville, Florida, 904 (b)(6)

September 28, 2009

B-E-F.

(b)(6)

TO WHOM IT MAY CONCERN:

I am writing this letter to because of the injustice that I have suffered from the Department of Immigration and Home Land Security. I am an American citizen and my husband is from Niger, Africa. My husband is a Muslim and I am a Christian.

In October 2007, my husband and I had received a letter from the Immigration giving us an appointment to come in for an interview. We kept the appointment but I was not prepared for the embarrassing question that I was asked when they separated me from my husband. I was asked some sexually explicit questions about our married life. I felt this was an invasion of my privacy. The interviewer kept trying to get me to say things that were not true. They even wanted to know why I married a Muslim and not someone of my own faith. They asked me if I knew that Muslims were terrorist. They then handcuffed me and made me feel that I had done something wrong, this frighten and intimidated me.

I was later told that they had arrested my husband and would not tell me anything about the charges. They also took the keys to our car and kept the car, when they finally released me they told me that I would have to get home the best way that I could. They would not even let me use the telephone to call my family to try and get someone to come pick me up. They put me out of the building and I had to go and find a telephone to use. I have never experienced anything like this in my life. Almost anyone will let you use the telephone.

This harassment from Immigration has not stopped. (b)(6),(b)(7)(C) and other people pushed there way into my house without any warning. They interrogated me over and over again and ask me "am I ready to tell them the truth, implying that what I have already told them is a lie. They have gone to the housing authority for the apartments that I lived in and said things about my husband and I which were not true. I got evicted from my apartment and had to move in with relatives.

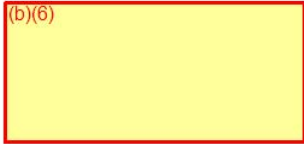
They have come to my job and insinuated untruths which put a lot of pressure on me, resulting in me having to leave my job. This whole thing with immigration has caused me and my husband much stress and hardship. They have gone to all my family members and friends insinuating lies, and attacking the character of me and my husband. I had no idea that people who are hired to protect you could be so cruel and intimidating and liars.

My husband is in a deportation status now, trying to get an appeal because he has done nothing wrong and neither have I. These people have no care or consideration for my marriage and needless to say this has put a great strain between me and my husband. He

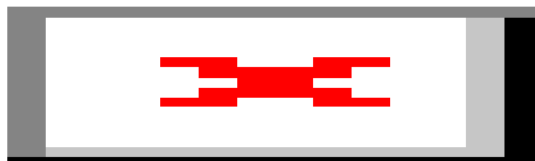
has been unable to work for almost two years. We have had to spend all of our money on lawyers and I am the only one supporting everything. This is unreal and it is not fair, and no one seems to care. That's why I am sending this letter to everyone I can think of including the President in hopes that someone can help us. If you can be of any assistance, we would greatly appreciate it. Please contact me.

Sincerely,

(b)(6)



From: (b)(6)@dhs.gov]
Sent: Tuesday, October 26, 2010 9:52 AM
To: (b)(6)
Subject: RE: Complaint No. 11-10-ICE-0005



The below information has been reviewed and is returned for whatever administrative action or inquiry you consider appropriate. Should any administrative or personnel action result from your response to this information, you are requested to report the final result of that action within 30 business days of its conclusion.

If your review of this matter discloses evidence of previously unreported criminal misconduct that is reportable under Management Directive 0810.1, you are required to notify this office of that information before any additional investigative steps are taken.

From: (b)(6)@associates.dhs.gov]
Sent: Thursday, October 21, 2010 11:47 AM
To: (b)(6)
Cc:
Subject: Complaint No. 11-10-ICE-0005

PLEASE REVIEW.

On October 4, 2010, CRCL received from DHS Executive Secretariat (ES) a September 21, 2010 letter to DHS Secretary Janet Napolitano from Ms. (b)(6) writing with

regard to her godson, Mr. (b)(6) (Exec Sec Workflow No. 883065). In her correspondence, Ms. (b)(6) alleges that ICE Special Agent (SA) (b)(6),(b)(7)(C) of the Jacksonville, Florida ICE Office, has engaged in racial and religious profiling of Muslims from the country of Niger. She claims that SA (b)(6),(b)(7)(C) improperly targeted eight African Muslim young men from Niger, including Mr. (b)(6) and committed due process violations to try to get them deported. (Ms. (b)(6) does not provide the names of any of the other men who were subjected to the profiling by SA (b)(6),(b)(7)(C) if known. She states that two of them have been deported.) Ms. (b)(6) states that all of those young men were legally in the U.S. on student visas, and had to work to support themselves. They were arrested for unauthorized employment. After they were released from federal prison and put on probation, SA (b)(6) allegedly harassed them and tried to find any basis to arrest them again. Ms. (b)(6) requests that DHS look into this matter before ICE departs Mr. (b)(6).

In addition, Ms. (b)(6) alleges that there are deficient conditions of detention at “Baker County Jail” [Baker County Detention Center (BCDC)] in Macclenny, Florida, where Mr. (b)(6) was detained in ICE custody. Ms. (b)(6) states that detainees have no windows at the facility and have no access to outdoor recreation. She states that they cannot have contact with visitors, and, rather, must speak with visitors from their housing units using “telephone monitors.” (Note: Ms. (b)(6) does not specify who reported those conditions of detention to her, or when the allegations were made. EARM records show that Mr. (b)(6) was detained at BCDC from August 25, 2010, to September 17, 2010, and was then transferred to Wakulla County Jail in Crawfordville, Florida, where he is presently detained. At the time she wrote her letter to Secretary Napolitano, Ms. (b)(6) evidently did not know that Mr. (b)(6) had been transferred from BCDC to another facility. In her letter, Ms. (b)(6) requests that Mr. (b)(6) be released from BCDC, claiming there is no basis for holding him in detention.)

As an enclosure, Ms. (b)(6) provides a copy of a September 28, 2009 letter from Ms. (b)(6) the U.S. citizen spouse of Mr. (b)(6). Ms. (b)(6) letter is addressed to “TO WHOM IT MAY CONCERN.” (Neither Ms. (b)(6) nor Ms. (b)(6) correspondence indicates to whom the letter was previously sent, if anyone). In her letter, Ms. (b)(6) focuses on an October 2007 ICE interview of her and Mr. (b)(6). She states that ICE personnel asked her and Mr. (b)(6) inappropriate questions, including sexually explicit questions about their married life. She alleges that the interviewers, whom she did not name in her letter, allegedly asked her why she married a Muslim (Ms. (b)(6) identifies herself as Christian) and asked if she knew that Muslims were terrorists. They then allegedly handcuffed her, and told her that they had arrested her husband, but would not tell her about the “charges”. The ICE personnel allegedly did not allow her to use a phone when they removed her from the building. Additionally, Ms. (b)(6) claims that SA (b)(6),(b)(7)(C) and others went into her house without warning and interrogated her, implying that she was telling them lies. She claims that ICE has also visited her at her job, and approached family members and friends,

attacking the character of her and her husband without basis. (Ms. (b)(6) letter does not provide the dates of those alleged actions.)

(b)(5),(b)(6),(b)(7)(C)

Thank You,

(b)(6)

Review and Compliance Division

Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
(202) 357-(b)(6) v)
(202) 401-4708(F)

DHS/TSA Civil Rights

DHS Complaint History Listing

DHS Matters: Contact-DHS-11-0007 11-01-ICE-0005

(b)(6)

Data Object	Date	Event	Field	New Value	Tracking Id	User	Reason
DhsComplaint	2010-10-20 16:06	Create	Component Referenced	ICE	6741	(b)(6)	User Change
DhsComplaint	2010-10-20 16:06	Create	Summary	On October 4, 2010, CRCL received from DHS Executive Secretariat (ES) a September 21, 2010 letter to DHS Secretary Janet Napolitano from Ms. (b)(6) writing with regard to her godson, Mr. (b)(6) Workflow No. 883	6741		User Change
DhsComplaint	2010-10-20 16:06	Create	Allegation	(CR/CL) Civil Rights/Civil Liberty	6741		User Change
DhsComplaint	2010-10-20 16:06	Create	Days to Process	19	6741		User Change
DhsComplaint	2010-10-20 16:06	Create	Date to CRCL	10/01/2010	6741		User Change
DhsComplaint	2010-10-20 16:06	Create	Date to DHS	10/01/2010	6741		User Change
DhsComplaint	2010-10-20 16:06	Create	Date on Correspondence	10/01/2010	6741		User Change
DhsComplaint	2010-10-20 16:06	Create	Sender Type	Individual	6741		User Change
DhsComplaint	2010-10-20 16:06	Create	Method of Receipt	Email	6741		User Change
DhsComplaint	2010-10-20 16:06	Create	Entry Date	10/20/2010	6741		User Change
DhsComplaint	2012-07-17 14:55	Update	Days to Process	655	6741		User Change
DhsComplaint	2012-07-17 14:55	Update	(b)(5)	(b)(5)	6741		User Change
DhsComplaint	2012-07-11 16:43	Update	Days to Process	649	6741		User Change
				On October 4, 2010, CRCL received from DHS Executive Secretariat (ES) a September 21, 2010 letter to DHS			

DhsComplaint	2012-07-11 16:43	Update	Summary	Secretary Janet Napolitano from Ms. (b)(6) writing with regard to her godson, Mr. (b)(6) Workflow No. 883	6741	(b)(6)	User Change
DhsComplaintAction	2013-03-15 12:35	Create	Action Date	03/15/2013	109717		User Change
DhsComplaintAction	2013-03-15 12:35	Create	Reporting Summary	On October 4, 2010, CRCL received from DHS Executive Secretariat a September 21, 2010, letter to DHS Secretary Janet Napolitano from Ms. (b)(6) alleging that her godson, (b)(6) a U.S. Immigration and Customs Enforcement (ICE) detainee a	109717		User Change
DhsComplaintAction	2013-03-15 12:35	Create	Document	11-01-ICE-0005 Close Memo No Recs final 3-15-13.pdf	109717		User Change
DhsComplaintAction	2013-03-15 12:35	Create	Action	Closed - Short Form/No Further Action	109717		User Change
DhsComplaintAction	2013-03-15 12:35	Create	Internal Summary	On October 4, 2010, CRCL received from DHS Executive Secretariat a September 21, 2010, letter to DHS Secretary Janet Napolitano from Ms. (b)(6) alleging that her godson, (b)(6) a U.S. Immigration and Customs Enforcement (ICE) detainee a	109717		User Change
DhsComplaintAction	2013-03-15 12:27	Update	Secondary Assignment	(b)(6)	102924		User Change
DhsComplaintAction	2011-02-03 12:57	Create	Action Date	02/03/2011	103334		User Change
DhsComplaintAction	2011-02-03 12:57	Create	Action	Short Form	103334		User Change
DhsComplaintAction	2010-12-06 14:27	Create	Action	Back from Officer.	102924		User Change
DhsComplaintAction	2010-12-06 14:27	Create	Comments	(b)(5)	102924		User Change
DhsComplaintAction	2010-12-06 14:27	Create	Primary Assignment	(b)(6)	102924		User Change

DhsComplaintAction	2010-12-06 14:27	Create	Action Date	12/06/2010	102924	(b)(6)	User Change
DhsComplaintAction	2010-12-06 14:27	Create	Action	Recommendation Review	102923		User Change
DhsComplaintAction	2010-12-06 14:27	Create	Comments	(b)(5), (b)(6)	102923		User Change
DhsComplaintAction	2010-12-06 14:27	Create	Action Date	12/06/2010	102923		User Change
DhsComplaintAction	2010-11-01 16:56	Create	Action Date	11/01/2010	102734		User Change
DhsComplaintAction	2010-11-01 16:56	Create	Action	Awaiting Recommendation	102734		User Change
DhsComplaintAction	2010-11-01 16:55	Create	Action Date	11/01/2010	102733		User Change
DhsComplaintAction	2010-11-01 16:55	Create	Action	IG Declines/Back from IG	102733		User Change
DhsComplaintAction	2010-10-21 11:38	Create	Action Date	10/21/2010	102665		User Change
DhsComplaintAction	2010-10-21 11:38	Create	Action	Open a Complaint	102665		User Change
DhsComplaintAction	2010-10-21 11:47	Create	Action Date	10/21/2010	102666		User Change
DhsComplaintAction	2010-10-21 11:47	Create	Action	Sent to IG	102666		User Change
DhsComplaintDocument	2010-10-21 11:41	Create	Document Type	Incoming Letter	81496		User Change
DhsComplaintDocument	2010-10-21 11:41	Create	Document 1	Incoming Complaint- (b)(6) pdf	81496		User Change
DhsComplaintDocument	2010-10-21 11:41	Create	Dateentered	10/21/2010	81496		User Change
DhsComplaintDocument	2010-10-21 11:41	Create	Foreign Language	No	81496		User Change
DhsComplaintDocument	2010-11-01 16:54	Create	Document 1	Acknowledgement Letter (b)(6) docx	81547		User Change
DhsComplaintDocument	2010-11-01 16:54	Create	Dateentered	11/01/2010	81547		User Change
DhsComplaintDocument	2010-11-01 16:54	Create	Foreign Language	No	81547		User Change
DhsComplaintDocument	2010-11-01 16:54	Create	Document Type	Draft Response	81547		User Change
	2010-			RE Complaint No. 11-			User

DhsComplaintDocument	11-01 16:21	Create	Document 1	10-ICE-0005 From IG.htm	81546	(b)(6)	Change
DhsComplaintDocument	2010- 11-01 16:21	Create	Dateentered	11/01/2010	81546		User Change
DhsComplaintDocument	2010- 11-01 16:21	Create	Foreign Language	No	81546		User Change
DhsComplaintDocument	2010- 11-01 16:21	Create	Document Type	Draft Response	81546		User Change
DhsComplaintDocument	2010- 11-30 11:51	Create	Document 1	(b)(6) docx	81635		User Change
DhsComplaintDocument	2010- 11-30 11:51	Create	Comments	Updated Complaint Summary.	81635		User Change
DhsComplaintDocument	2010- 11-30 11:51	Create	Dateentered	11/30/2010	81635		User Change
DhsComplaintDocument	2010- 11-30 11:51	Create	Foreign Language	No	81635		User Change
DhsComplaintDocument	2012- 06-13 15:48	Create	Foreign Language	No	86914		User Change
DhsComplaintDocument	2012- 06-13 15:48	Create	Comments	ICE ROI and Exhibits	86914		User Change
DhsComplaintDocument	2012- 06-13 15:48	Create	Dateentered	06/13/2012	86914		User Change
DhsComplaintDocument	2012- 06-13 15:48	Create	Document 1	201100134 AIR.out	86914		User Change
DhsComplaintDocument	2012- 06-13 15:48	Create	Document Type	ROI	86914		User Change
DhsComplaintDocument	2012- 06-13 15:48	Create	Document 2	201100134 Exhibits.pdf	86914		User Change
DhsComplaintDocument	2013- 03-15 12:23	Create	Document 1	11-01-ICE-0005 Close. Memo No Recs final 3- 15-13.pdf	89934		User Change
DhsComplaintDocument	2013- 03-15 12:23	Create	Comments	Close Memo to File no Recs.	89934		User Change
DhsComplaintDocument	2013- 03-15 12:23	Create	Document Type	Final Report	89934		User Change
DhsComplaintDocument	2013- 03-15 12:23	Create	Dateentered	03/15/2013	89934		User Change
DhsComplaintDocument	2013- 03-15 12:23	Create	Foreign Language	No	89934		User Change
DhsComplaintIssue	2012- 07-17 14:56	Update	Incident Location	Residence	12323		User Change
DhsComplaintIssue	2012- 07-17 14:56	Update	State	Florida - FL	12323		User Change

DhsComplaintIssue	2012-07-17 14:56	Update	Incident Location Type	Residence	12323	(b)(6)	User Change
DhsComplaintIssue	2012-07-17 14:56	Update	City	Jacksonville	12323		User Change
DhsComplaintIssue	2011-09-23 10:29	Update	(b)(5)	(b)(5)	12323		User Change
DhsComplaintIssue	2011-09-23 10:29	Update	Religion	Sikhism	12323		User Change
DhsComplaintIssue	2011-09-23 10:29	Update	Situation	DHS law enforcement activity	12323		User Change
DhsComplaintIssue	2010-11-09 16:40	Update	Primary Issue	Yes	12323		User Change
DhsComplaintIssue	2010-10-20 16:11	Update	State		12323		User Change
DhsComplaintIssue	2010-10-20 16:11	Update	Incident Location		12323		User Change
DhsComplaintIssue	2010-10-20 16:11	Update	Incident Location Type	Detention SPC	12323		User Change
DhsComplaintIssue	2010-10-20 16:11	Update	City		12323		User Change
DhsComplaintIssue	2010-10-20 16:10	Create	Religion	Other, please specify in comments	12323		User Change
DhsComplaintIssue	2010-10-20 16:10	Create	Incident Date	10/04/2010	12323		User Change
DhsComplaintIssue	2010-10-20 16:10	Create	Ongoing	No	12323		User Change
DhsComplaintIssue	2010-10-20 16:10	Create	Redirect to Subject	No	12323		User Change
DhsComplaintIssue	2010-10-20 16:10	Create	State	Florida - FL	12323		User Change
DhsComplaintIssue	2010-10-20 16:10	Create	Incident Location	Baker County Detention	12323		User Change
DhsComplaintIssue	2010-10-20 16:10	Create	Primary Issue	No	12323		User Change
DhsComplaintIssue	2010-10-20 16:10	Create	Incident Location Type	Detention IGSA	12323		User Change
DhsComplaintIssue	2010-10-20 16:10	Create	City	Maccleddy	12323		User Change
DhsComplaintIssue	2010-10-20 16:10	Create	(b)(5)	(b)(5)	12323		User Change
DhsComplaintPartiesInvolved	2010-10-21	Create	Contact Type	On Behalf Of	19406		User Change

	11:43					(b)(6)	
DhsComplaintPartiesInvolved	2010-10-21 11:43	Create	First Name	(b)(6)	19406		User: Change
DhsComplaintPartiesInvolved	2010-10-21 11:43	Create	Last Name	(b)(6)	19406		User: Change
DhsComplaintPartiesInvolved	2010-10-20 16:14	Create	Contact Type	On Behalf Of	19405		User: Change
DhsComplaintPartiesInvolved	2010-10-20 16:14	Create	First Name	(b)(6)	19405		User: Change
DhsComplaintPartiesInvolved	2010-10-20 16:14	Create	Last Name	(b)(6)	19405		User: Change
DhsComplaintPartiesInvolved	2010-10-20 16:13	Create	City	Jacksonville	19404		User: Change
DhsComplaintPartiesInvolved	2010-10-20 16:13	Create	Address Line 1	(b)(6)	19404		User: Change
DhsComplaintPartiesInvolved	2010-10-20 16:13	Create	Contact Type	Sender	19404		User: Change
DhsComplaintPartiesInvolved	2010-10-20 16:13	Create	Phone	904 (b)(6)	19404		User: Change
DhsComplaintPartiesInvolved	2010-10-20 16:13	Create	First Name	(b)(6)	19404		User: Change
DhsComplaintPartiesInvolved	2010-10-20 16:13	Create	State	Florida - FL	19404		User: Change
DhsComplaintPartiesInvolved	2010-10-20 16:13	Create	Last Name	(b)(6)	19404		User: Change

(b)(6)

From: (b)(6)@dhs.gov
Sent: Thursday, January 20, 2011 9:22 AM
To: (b)(6)
Cc:
Subject: RE: CRCL Complaint Number 11-03-ICE-0046

Office of Inspector General

U.S. Department of Homeland Security



**Homeland
Security**

The below information has been reviewed and is returned for whatever administrative action or inquiry you consider appropriate. Should any administrative or personnel action result from your response to this information, you are requested to report the final result of that action within 30 business days of its conclusion.

If your review of this matter discloses evidence of previously unreported criminal misconduct that is reportable under Management Directive 0810.1, you are required to notify this office of that information before any additional investigative steps are taken.

From: (b)(6)@dhs.gov
Sent: Tuesday, January 18, 2011 6:39 PM
To: (b)(6)
Cc:
Subject: RE: CRCL Complaint Number 11-03-ICE-0046

(b)(6)

Summary of new complaint for your review:

On December 14, 2010, CRCL received correspondence from Attorney (b)(6) of the Immigration Law Offices of (b)(6) on behalf of Mr. (b)(6). Mr. (b)(6) initially filed a Statement Contesting Intent to File Reinstatement Order with DHS-New Orleans District Office, but Mr. (b)(6) believes that ICE officers have committed violations of the Fourth Amendment and other civil rights violations in the case of approximately nineteen others arrested during a raid on the Clairmont Apartment Complex in Nashville, Tennessee on October 20, 2010.

Mr. (b)(6) alleges that ICE violated his due process rights in his detention, arrest and interrogation. He alleges that ICE officers engaged in coercive questioning, detention without reasonable suspicion, and arrest without probable cause, and that ICE or a DSCO violated Mr. (b)(6) right to counsel during an examination.

He alleges violations of Fourth Amendment rights and excessive use of force by ICE agents during a raid at an apartment complex in Nashville, TN on October 20, 2010 that led to his arrest and detention. (He was detained at ICE Oakdale and Jena Detention Center.) The correspondence indicates that Mr. (b)(6) provided ICE New Orleans Field Office with his enclosed Statement detailing these allegations. In that Statement, Mr. (b)(6) contests DHS' decision to reinstate an Order of Removal originally imposed on him by an Immigration Judge in 2008.

Thank you.

(b)(6)

Program Analyst

Compliance Branch

Office for Civil Rights & Civil Liberties

Department of Homeland Security

(202) 357-(b)(6) phone)

(b)(6)

[@dhs.gov](mailto:(b)(6)@dhs.gov)

IMMIGRATION LAW OFFICES OF

(b)(6)

ATTORNEYS AT LAW

(b)(6)

Nashville, TN 37217

(615) (b)(6) Fax (615) 321-5230

E-Mail: (b)(5)

December 2, 2010

Office for Civil Rights & Civil Liberties

DEC 14 2010

Department of Homeland Security
Office for Civil Rights and Civil Liberties
Review and Compliance
245 Murray Lane, SW
Building 410, Mail Stop #0190
Washington, DC 20528

RE:

(b)(6)

Dear Sir or Madam:

On this date, I am transmitting to you a copy of the Statement Contesting Intent to File Reinstatement Order including all Exhibits attached thereto in the above-referenced matter. This was originally sent to Department of Homeland Security — New Orleans District Office.

The reason for this transmittal is because I believe very strongly that ICE officers have committed egregious violations of the Fourth Amendment and other civil rights violations in this case in the cases of approximately nineteen others arrested during a raid on the Clairmont (b)(6) (b)(6) Nashville, TN on October 20, 2010. The events which transpired during the raid and which form the basis of my allegations are detailed in the exhibits in the enclosed Statement.

Thank you for your attention to this matter.

With best regards.

(b)(6)

Enclosure as Noted

Cc:

Margo Schlanger

DHS Officer for Civil Rights and Civil Liberties

Office for Civil Rights and Civil Liberties

U.S. Department of Homeland Security

Building 410, Mail Stop #0190

Washington, D.C. 20528

**BEFORE THE SECRETARY OF HOMELAND SECURITY
NEW ORLEANS DISTRICT OFFICE**

In Re:

(b)(6)

Respondent

No.

(b)(6)

STATEMENT CONTESTING INTENT TO FILE REINSTATEMENT ORDER

Comes now the Respondent, (b)(6) by and through his undersigned attorney who is representing Respondent on a pro bono basis, hereby files this Statement contesting the determination by the Secretary of Homeland Security to reinstate an Order of Removal allegedly entered against Respondent by an Immigration Judge in the San Francisco Immigration Court on June 30, 2008.

This Statement, which incorporates the Respondent's own Declaration, attached hereto as Exhibit A, also incorporates other exhibits listed on the Table of Exhibits and attached hereto.

This Motion is filed pursuant to the authority of 8 CFR § 241.8(b). Although it appears that Respondent signed Form I-871, Acknowledgement and Response and checked the box which said, "I do not wish to make a statement contesting this determination", he did so under coercion and confusion following an illegal forcible entry into his apartment and without benefit of legal counsel. Legal counsel has been prevented from having access to Respondent ever since the apartment invasion on October 20, 2010 until a phone interview on November 15 and 16, 2010. The Acknowledgement and Response box was checked only hours after the Claimant (b)(6) which traumatized Respondent so that he did not have full command of his faculties and could not comprehend the import or significance of what he was signing. Respondent through counsel hereby revokes the Response signed on October 20, 2010

and now states his desire to make a statement, including his Declaration and all other Exhibits attached hereto, contesting the determination made on that date.

Facts

Respondent resided at the Clairmont (b)(6) Exhibit B, ¶4). He was inside his residence at Clairmont (b)(6) when ICE agents broke through the doors and windows of the apartment (Exhibit A, ¶3) at the time of the raid conducted by ICE on October 20, 2010 (Exhibit A, ¶ 2) at approximately 6:00-6:30 PM (Exhibit C, ¶ 5). A total of six (6) men were in (b)(6) at the time of the raid (Exhibit B, ¶ 3). All windows and doors were locked (Exhibit B, ¶ 6).

The raid at (b)(6) started with loud banging at the door and yelling, "Open up! Police!" (Exhibit A, ¶ 7 and Exhibit B, ¶ 7). No person inside the apartment opened any door or any window (Exhibit A, ¶ 6 and Exhibit B, ¶ 6). No person inside the apartment gave consent for any person to enter into the apartment, either from the inside hallway or from the outside (Exhibit A, ¶ 6). Police broke through the Apartment (b)(6) wooden/fiberglass door accessing the interior hallway of the apartment complex (Exhibit C, ¶ 6) and broke through and pried open one of the apartment windows leading from the outside (Exhibit A, ¶ 5 and Exhibit C, ¶ 14). See pictures of the damage to the door and window at Exhibit H.

At least seven (7) ICE agents broke into the apartment (Exhibit B, ¶ 9). Even though none of the (b)(6) occupants had guns (Exhibit C, ¶ 18), several ICE agents had guns drawn (Exhibit A, ¶ 8). Many agents wore vests that said "POLICE-ICE" (Exhibit A, ¶ 10; Exhibit B, ¶ 9; see Exhibit F for "Demonstrative Examples of "ICE POLICE" Clothing;), and some screamed "Don't move! Get down on the ground!" (Exhibit A, ¶ 8).

Respondent was in his bedroom at the time of the ICE break-in and some ICE agents broke through his bedroom door while saying, "Open the door, bitches!" (Exhibit A, ¶ 9). The entire encounter

was laced by extremely ugly and offensive profanities, some racial in nature (see, e.g., Exhibit A, ¶ 11, 12, 14; Exhibit B, ¶¶ 12, 15, 16, 18, 23, 30). No arrest warrants or search warrants were produced even though several residents requested to see them (Exhibit B, ¶ 19-20); the only response was a profane reply which necessarily implied that ICE agents did not need warrants to break into a residence and arrest the occupants (Exhibit A, ¶ 13; Exhibit C, ¶¶ 18-19).

ICE handcuffed all occupants (Exhibit A, ¶ 17; Exhibit B, ¶ 26). When Respondent was handcuffed, the ICE officer made them fit so tightly that Respondent was in pain, but when the ICE officer was asked to provide some relief, Respondent was ridiculed and cursed (Exhibit A, ¶ 18; Exhibit B, ¶¶ 28-30).

After removed from the premises, Respondent and (b)(6) were put in the same vehicle (Exhibit B, ¶ 27) and taken first to the ICE office in MetroCenter in Nashville (Exhibit B, ¶ 31), where they were fingerprinted and photographed (Exhibit B, ¶ 31) and “made” to “sign papers” (Exhibit B, ¶ 33). It was in this atmosphere of coercion and trauma that Respondent signed the I-871, dated 10-20-2010 (the night of the raid), indicating: “I do not wish to make a statement contesting this determination.” All F-106 occupants were later taken to “a jail in downtown Nashville” and “checked all night, given injections, and processed with paperwork” (Exhibit B, ¶ 34).

The next day, an African-American employee at the Metro Nashville Jail put an ICE agent on notice that attorneys were trying to contact the (b)(6) occupants and “get them out”, but the ICE agent ignored her. They were removed from the jail moments later and returned to the ICE office in MetroCenter (Exhibit B, ¶ 35). On Friday morning, October 22, 2010, all Clairmont detainees were transported from Nashville to Ft. Payne, Alabama, despite ICE’s knowledge that attorneys desired to confer with them and represent them (Exhibit B, ¶ 36; Exhibit R).

On Saturday, October 23, 2010, a number of attorneys (including (b)(6) of the ACLU of Tennessee) and translators traveled to Ft. Payne, Alabama to interview all the Clairmont detainees known to have been arrested at that time. There were six detainees, including Respondent, who could not be interviewed on Saturday, October 23 because "they could not be located" according to officials at the Ft. Payne Detention Center. Approximately 14 of the 20 known Clairmont detainees were interviewed and signed G-28s and FOIA Requests, but the Respondent was not one of the 14. See Exhibit L.

Clairmont detainees were then transported to Jena Detention Center in LaSalle, Louisiana. The undersigned attorney asked for NTAs on all detainees, and my office received on November 4, 2010 what ICE claims is an NTA on Respondent (see Exhibit I)¹ bearing the Case No. A089-110-675. At that time my office realized that this NTA had an "old A number" and was dated 5/4/2008; consequently, my office ran a check on the status of this case in the Immigration Court Database System and discovered that an Order of Removal had been issued with that Case Number.

My office then called Jena and Oakdale and requested (a) a copy of the order of removal in Case No. (b)(6) (b) a copy of the I-871 with that Case Number, and (c) a phone consultation with Respondent. The phone consultation did not take place until Monday, November 15, 2010, and the Order of Removal and Reinstatement Order were not faxed to our office until Tuesday, November 16, 2010. Since November 4, 2010, both ICE Oakdale and the Jena Facility in LaSalle, Louisiana have constructed an obstacle course designed to prevent access to Respondent by the undersigned attorney and others acting at his behest and refused to furnish a copy of necessary documentation to represent Respondent. See Exhibits M, N, O, P and Q. It is interesting to note that the date DHS/ICE received the Order of Removal is 10/21/2010 while the Reinstatement Order is dated 10/20/2010, making this process illegal.

¹ Respondent is not conceding for purposes of this Statement that he is the person named in the Notice to Appear. It is not uncommon for different individuals to have the same name. For example, this office has recently learned that two persons with the same name but different A numbers were arrested during the Clairmont Raid: (b)(6)
(b)(6)

Grounds for Contesting the Reinstatement Determination

1. The Secretary, through Immigration and Customs Enforcement (ICE) Agents, has violated due process to permit evidence obtained as the result of coercion.
2. The Secretary, through her ICE agents, violated its own regulations, including but not limited to 8 CFR § 241.8, and other guidelines that are intended for the benefit of the Respondent and Respondent suffered prejudice as a result of these violations.
3. The Secretary, through her ICE agents, committed egregious violations of the Fourth Amendment to the U.S. Constitution, and any evidence obtained as the result of egregious Fourth Amendment violations cannot be used in a reinstatement proceeding.
4. The manner in which the Secretary, through her ICE agents, conducted the investigation at the Clairmont (b)(6) calls into question the integrity of the action of the Department of Homeland Security, which implicates, inter alia, Accardi v. Shaughnessy, 347 U.S. 260 (1954).
5. The Secretary, through ICE Agents, has violated due process by seriously interfering with attorney-client communications and relations.

Legal Discussion

(1) All evidence in the possession of DHS / ICE which ties Respondent in custody to the individual who was subject to the Order of Removal by the San Francisco Immigration Judge was obtained through coercion that started with the raid and illegal break-in by ICE agents at the Clairmont (b)(6) on October 20, 2010 at approximately 6:00 PM ("Clairmont Raid"), and continued through the night. This includes the fingerprints that were taken on October 20, 2010 as well as any confessions or statements made by or taken from Respondent by DHS / ICE. This in violation of due process as guaranteed by the U.S. Constitution.

It is not "fundamentally fair" to use evidence that deprives Respondent of due process. *Baliza v.*

INS, 709 F.2d 1231 (9th Cir. 1983); *Tashnizi v. INS*, 585 F.2d 781 (5th Cir. 1978); *Matter of Toro*, 17 I&N Dec. 340 (BIA 1980); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503 (BIA 1980); *Matter of Lam*, 14 I&N Dec. 168 (BIA 1972).

The Fifth Amendment's Due Process Clause prohibits, inter-alia, coercive questioning. See *Cooper v. Dupnik*, 963 F.2d 1220, 1237 (9th Cir. 1992). At least one circuit court has recognized that Fifth Amendment violations can warrant suppression in the immigration context. *Navia-Duran v. INS*, 568 F.2d 803 (1st Cir. 1977); *Kandamar v. Gonzalez*, 464 F.3d 65 at 71 (1st Cir. 2006).

It is well-settled that the Fifth Amendment entitles aliens within the United States to due process of law. *Reno v. Flores*, 507 U.S. 292 (1993); *Phyller v. Doe*, 457 U.S. 202, 210 (1982) (stating that "even aliens whose presence in this country is unlawful have long been recognized as 'persons' guaranteed due process of law by the Fifth and Fourteenth Amendments"); *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (recognizing that "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent"); see also *Felzcerek v. INS*, 75 F.3d 112, 116 (2nd Cir. 1996); *Matter of Toro*, 17 I&N Dec. 340, 343 (BIA 1980).

If the manner in which evidence is seized is so egregious that its probative value is undermined, or reliance on it would transgress notions of fundamental fairness, the use of that evidence would violate the Fifth Amendment requirement of due process. See *INS v. Lopez-Mendoza*, 468 U.S. 1032 at 1050-51 (1984); *Matter of Velasquez*, 19 I&N Dec. 377 (BIA 1986); *Matter of Toro*, 17 I&N Dec. 340; *Matter of Sandoval*, 17 I&N Dec. 70 (BIA 1979). Therefore, evidence obtained pursuant to an egregious Fourth Amendment violation can be suppressed under the Fifth Amendment. *Matter of Toro*, 17 I&N Dec. at 343 (egregious Fourth Amendment violation may render evidence inadmissible under the due process clause).

The applicability of the exclusionary rule is not limited to criminal proceedings and its use in

civil proceedings is well-established. The reasoning is well-stated in *U.S. v. Blank*:

Where as here there is a correlative civil action open to the Government which imposes a penalty . . . commensurate with the criminal sanctions to which an accused, victimized by an illegal search, would be exposed, then we see no distinguishable difference between the two forms of punishment which excuses the Government from complying with Constitutional mandates when prosecuting their action in a civil forum.

261 F. Supp 180, 182 (N.D. Ohio 1966). There is nothing about a removal proceeding which makes the application of the rule less compelling or less effective:

The exclusionary rule . . . links the power to search and seize with the use of incriminatory evidence. Its purpose is to insure that abuse of one takes the profit out of the acquisition of the other. It prevents the violation by penalizing the violator. Aborting the consequences of the violation is only an incidental result, or better stated, a means to the primary end of curbing Fourth amendment violations.

....

So long as an abuse of a power to invade privacy and arrest and search, might be an integral part of the gathering of incriminatory evidence for use in either a civil or criminal proceeding, as is possible in deportation cases, it would seem to make little difference, so far as the violation is concerned, if the end result is the use of the evidence in a civil, or criminal, proceeding, or both. If anything, looking to the need for the rule, it would seem to follow that the less significant the objective sought to be obtained by the breach of the constitutional imperative, the more reprehensible and needful of restraint or deterrence, is the violation.

Matter of Sandoval, 17 I&N 170, 186 (Applemen, concurring in part and dissenting in part).

The concept of fundamental fairness in immigration proceedings has been long required in due process. *Trias Hernandez v. INS*, 528 F.2d 366 (9th Cir. 1975); *Marlowe v. INS*, 457 F.2d 1314 (9th Cir. 1972); *Matter of Toro*, 17 I&N Dec. 340 (BIA 1940).

(2) The conduct of ICE agents during the Clairmont Raid violated all regulations and guidelines intended to govern and regulate the actions of ICE agents as they encounter persons in residences. They also violated the provision of 8 CFR § 241.8. This regulation requires DHS/ICE to determine (a) whether the alien has been subject to a prior order of removal, (b) whether the alien in custody is in fact

the alien who was previously removed through a verification process that compares the fingerprints of the previously-removed alien with the subject alien. Without that fingerprint verification, the alien cannot be removed. Respondent maintains that his fingerprints were illegally obtained on October 20, 2010 and cannot be properly used to satisfy the requirements of 8 CFR § 241.8.

It is axiomatic to the rule of law that an agency must adhere to its own regulations. Even assuming arguendo that DHS/ICE denies suppression of evidence, reinstatement proceedings must still be terminated when ICE violates regulations or sub-regulatory rules that affect the fundamental rights of a Respondent. *Singh v. U.S. Department of Justice*, 461 F.3d 290, 296-97 (2nd Cir. 2006). ICE agents or their delegated agents in DCSO violated multiple regulations and sub-regulatory rules during the course of the arrest and interrogation of Respondent. These regulations and sub-regulatory rules were promulgated to protect Respondent's Fourth and Fifth Amendment rights, which are clearly "fundamental". Accordingly, this Court must terminate these proceedings, or at the very least, conclude that Respondent has established a prima facie case of agency regulatory violations, shifting the burden to ICE to justify its conduct at an evidentiary hearing. Matter of Barcenas, 19 I&N Dec. 609, 611 (BIA 1988).

ICE violated four (4) regulations during the course of Respondent's detention, arrest, and interrogation. They are outlined below.

A. ICE violated the regulation barring coercive questioning. 8 CFR § 287.8(c)(viii).

B. ICE violated the regulation that there be no detention without a reasonable suspicion. 8 CFR § 287.8(b)(2).

C. ICE violated the regulation that there be no arrest without probable cause. 8 CFR § 287.8(c)(2)(i).